

U.S. DEPARTMENT OF LABOR  
Employment and Training Administration  
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 9  
November 2013

**ARIZONA** HB 2173  
(CH 204)

ENACTED and EFFECTIVE June 19, 2013

Administration

Provides that all base period employers of a claimant for benefits shall be promptly notified when a claimant files a payable continued claim (previously, an initial claim) for benefits during a period of unemployment.

Extensions and Special Programs

Amends the provisions of the Short-Term Compensation program as follows:

- For approval of a shared-work plan the plan must, if feasible, include a description of the employer's plan for notifying an employee whose work week is to be reduced and include an estimate of the number of layoffs that would have occurred without an approved shared work plan. Also, for plan approval the employer must certify, if the employer provides health benefits and retirement benefits under a defined benefit plan to any employee whose work week is reduced under the plan, that these benefits will continue to be provided to an employee participating in the shared work plan under the same terms and conditions as though the work week of the employee had not been reduced or to the same extent as other employees not participating in the shared work program.
- Provides that the requirements for the approval of the plan and the implementation of the plan must be consistent with the employer's obligations under all other federal and State laws.
- Provides that an individual is eligible to receive shared-work benefits if, among other requirements, during the week the individual is able to work and is available for work and both of the following apply: (a) the individual has engaged in a systematic and sustained effort to obtain work during at least 4 days of the week, and (b) the individual has made at least 3 work search contacts during the week.
- Provides that eligible individuals may participate in training to enhance job skills, including employer sponsored training or worker training funded under the Workforce Investment Act of 1998, if the training is approved by the department.
- Deletes the following language from the short-time compensation provisions: the Department shall not deny an otherwise eligible individual benefits under this article because of the application of any provision of this chapter relating to availability for

work, active search for work, or refusal to apply for or accept work from other than the individual's shared-work employer.

### Financing

Authorizes the Director of the Department of Economic Security to issue unemployment insurance tax anticipation notes during fiscal year 2013-2014 in an amount not to exceed the lesser of \$200 million and the amount determined by the director to be sufficient to provide monies to among other things:

1. Repay the outstanding balance borrowed from the federal government to pay unemployment insurance benefits.
2. Provide for payment of unemployment insurance benefits during fiscal year 2013-2014 until unemployment insurance tax receipts are sufficient to provide for payment of benefits.

Provides that if the Director issues notes, the Director shall:

1. Establish a note debt service fund consisting of monies transferred to the fund pursuant to law.
2. Transfer monies from the unemployment special assessment proceeds fund to the note debt service fund until the debt service fund contains monies sufficient to pay all interest to become due on the notes and note related expenses.
3. Transfer monies from the monies credited to the State's account in the unemployment trust fund to the note debt service fund in an amount sufficient to repay all unpaid principal of the notes.

Provides that monies in the note debt service fund may be used only to pay amounts payable on notes and note related expenses as they become due.

Provides that on the payment of all amounts due and to become due on the notes and the payment of all note related expenses, any amounts remaining in the note debt service fund shall be transferred to the unemployment compensation fund.

Establishes the unemployment special assessment proceeds fund which shall consist of monies transferred to the fund as appropriated. Notwithstanding any other law, if the State has an outstanding loan to pay unemployment insurance benefits to eligible claimants, fund monies shall be:

1. Used to pay interest charges incurred on the loan.
2. Used to retire the loan principal or, if the Director has issued notes, transferred to the note debt service fund.
3. Transferred to the State unemployment compensation fund, if funds are remaining.

Provides that the foregoing provisions relating to tax anticipation notes are repealed from and after December 31, 2015.

Provides that an employer's account shall not be relieved of charges relating to an erroneous benefit payment if the commission determines both of the following:

1. the erroneous benefit payment was made because the employer or an agent of the employer failed to timely or adequately respond to a written request for information relating to a claim for unemployment compensation, and
2. the employer or the employer's agent has established a pattern of failing to timely or adequately respond to such requests.

Defines "erroneous benefit payment" to mean a payment that would not have been made but for the failure of the employer or the employer's agent to make a timely or adequate response in regard to the claim for unemployment compensation, and defines "pattern of failing" to mean the repeated documented failure of an employer or employer's agent to make timely and adequate responses with consideration of the number of instances of failure in relation to the total number of requests. Pattern of failing shall be determined by reviewing the most immediate 12-month prior period. A pattern shall be established if the employer or the agent representing the employer has 5 or more failures or failures in more than 5 percent of the number of requests, whichever is greater. When an agent is representing the employer, the 5 or more failures or failures in more than 5 per cent of the number of requests shall be specific to the individual employer's account.

Requires the immediate deposit of the 15 percent assessments paid on the amount of the erroneous payment in the State unemployment compensation fund.

#### Monetary Entitlement

Provides that an unemployed individual shall be eligible to receive benefits with respect to any week, except for an individual who is applying for shared-work benefits.

#### Overpayments

Provides that if benefits to which a person is not entitled are received by reason of fraud committed by the person, the person shall be assessed a penalty equal to 15 percent of the amount of the erroneous payment, and the person is not eligible to receive any benefits until the total amount of the overpayment has been recovered or otherwise satisfied in compliance with a civil judgment.

**CALIFORNIA**      AB 35  
                              (CH 571)

ENACTED October 5, 2013  
EFFECTIVE January 1, 2014

#### Nonmonetary Eligibility

Provides that, to the extent authorized by Federal law, persons in receipt of a notice of decision from the Federal government granting deferred action under the Federal Deferred Action for Childhood Arrivals program who performed services for an employer while in receipt of a valid

employment authorization from the Federal government are lawfully present for purposes of performing the services and are eligible for unemployment compensation benefits.

**CALIFORNIA**      AB 576      ENACTED and EFFECTIVE October 7, 2013  
(CH 614)

#### Extensions and Special Programs

Establishes a pilot program to create a multiagency team consisting of specified state agencies, to be known as the Revenue Recovery and Collaborative Enforcement Team, to collaborate in combating criminal tax evasion associated with the underground economy by, among other activities, developing a plan for a central intake process and organizational structure to document, review, and evaluate data and complaints. Authorizes the exchange of information for investigating criminal tax evasion associated with the underground economy and requires that information be subject to applicable confidentiality laws. Requires a report to be filed with the Legislature by December 1, 2017, indicating the number of complaints received and cases investigated or prosecuted. Repeals the program January 1, 2019, unless a later enacted statute, enacted before January 1, 2019, deletes or extends that date.

**CALIFORNIA**      AB 1280      ENACTED October 4, 2013  
(CH 557)      EFFECTIVE January 1, 2014

#### Administration

Provides for the payment of unemployment compensation benefits by direct deposit. Requires that payments may only be deposited to an account that meets the requirements of a qualifying account. Defines “qualifying account” as:

- A demand deposit or savings account at an insured financial institution in the name of the person entitled to receipt of public assistance payments; or
- A prepaid card account that meets all of the following requirements:
  - The account is held at an insured financial institution;
  - The account is set up to meet the requirements for passthrough deposit or share insurance so that the funds accessible through the account are eligible for insurance for the benefit of the person entitled to the receipt of public assistance payments;
  - The account is not attached to any credit or overdraft feature that is automatically repaid from the account after delivery of the payment; and
  - The card issuer complies with all of the requirements, and provides the cardholder with all of the consumer protections, that apply to a payroll card account under the rules implementing the Federal Electronic Fund Transfer Act (EFTA).

Prohibits card issuers from accepting or facilitating the direct deposit of unemployment compensation benefit payments if the card account does not comply with the above requirements.

Provides that the Employment Development Department (EDD) has no obligation to determine whether an account at the financial institution of the recipient's choice is a qualifying account. Absolves EDD of liability for authorizing a direct deposit of unemployment compensation benefit payments into a prepaid card account designated by the recipient that does not comply with the above requirements.

**CALIFORNIA**      SB 770  
                              (CH 350)

ENACTED September 24, 2013  
EFFECTIVE July 1, 2014

Temporary Disability Insurance

Expands scope of the family temporary disability program to include time off to care for a seriously ill grandparent, grandchild, sibling, or parent-in-law, as defined.

**DELAWARE**      SB 54  
                              (CH 117)

ENACTED July 16, 2013  
EFFECTIVE October 22, 2013

Financing

Provides that the 15 percent penalty assessed on the amount of the overpayment due to fraud shall be paid into the Unemployment Compensation Fund.

Overpayments

Provides that any individual who has committed fraud to obtain unemployment benefits shall be assessed a monetary penalty of 15 percent of the amount received as a result of fraud. Applies to fraudulent overpayments of unemployment insurance benefits established after October 21, 2013.

**DISTRICT OF COLUMBIA**      B 199  
  (Law No. 20-0061)

ENACTED August 28, 2013  
EFFECTIVE December 24, 2013

Financing

Changes the penalty for late contributions or reports from 25 percent to 10 percent.

For benefit overpayments established on or after October 1, 2013, provides that if the employer or the employer's agent is at fault for failing to respond timely or adequately to a request for information and has established a pattern of failing to respond timely or adequately, the employer shall not be relieved of charges for the benefit overpayments unless such failure was for good cause.

Provides that the 15 percent penalty assessed for overpayments made as a result of fraud shall be deposited in the District Unemployment Fund.

Overpayments

For determinations made on or after October 1, 2013, provides that a 15 percent penalty shall be assessed for overpayments made as a result of fraud. The penalty shall not be deducted from any future benefits payable to the individual.

**MICHIGAN**

HB 4950  
(P.A. 142)

ENACTED and EFFECTIVE October 29, 2013

### Financing

Provides that, if an employer or employer's agent has a pattern of failing to respond with timely or adequate information required or requested, benefits paid to a claimant as a result of the employer's or employer's agent's failure to provide timely or adequate information shall be charged to that employer's account. To demonstrate a pattern sufficient to render the benefits chargeable, the unemployment agency shall document repeated failure to provide timely or adequate responses and shall take into consideration the number of instances of failure in relation to the number of requests. The number of failures must be more than 4 and constitute 2 percent or more of all the requests directed to the employer during the prior calendar year. A determination that an employer's account shall be charged and that the employer's account shall not be credited for the benefit payments is appealable in the same manner as other unemployment determinations. Recovery of benefits improperly paid to the claimant shall be as provided in Section 421.62(a). (Prior law provided that benefits paid to an individual as a result of an employer's failure to provide the unemployment agency with separation, employment, and wage data as required shall be considered as benefits properly paid to the extent that the benefits are chargeable to the noncomplying employer.)

**MICHIGAN**

HB 4951  
(P.A. 143)

ENACTED and EFFECTIVE October 29, 2013

### Financing

Provides that amounts recovered by the unemployment agency that were obtained by making a false statement or representation knowing it to be false, or knowingly and willfully with intent to defraud failing to disclose a material fact to obtain or increase benefits or other payment shall be credited in the following order: (i) from the penalty assessment recovered, an amount equal to 15 percent of any benefit overpayments resulting from fraud shall be credited to the unemployment compensation fund; (ii) for the balance of deductions from unemployment insurance benefits, to the liability for benefit repayment; and (iii) for all other recoveries, the balance shall first be credited to the unemployment compensation fund for repayment of any remaining amounts owed, and then to the contingent fund to be applied first to administrative sanctions and damages and then to interest. (Applies to a deduction or recovery made pursuant to a determination or redetermination issued after October 21, 2013.) (Prior law provided that amounts recovered shall be credited as follows: (i) deductions from unemployment insurance benefits shall be applied solely to the amount of the benefits liable to be repaid; and (2) all other recoveries shall be applied first to repayment amounts owed, which shall be deposited in the unemployment compensation fund; then to administrative sanctions and damages; and then to

interest. The amounts applied to administrative sanctions, damages, and interest shall be credited to the contingent fund.)

**MICHIGAN**

HB 4952  
(P.A. 146)

ENACTED and EFFECTIVE October 29, 2013

#### Nonmonetary Eligibility

Provides that, until 1 year after October 29, 2013, an individual is considered to have refused an offer of suitable work if the prospective employer requires as a condition of the offer a drug test that is subject to the same terms and conditions as a drug test administered under the drug testing provisions, and the employer withdraws the conditional offer after either of the following: (i) the individual tests positive for a controlled substance and lacks a valid, documented prescription, as defined in section 17708 of the public health code, 1978 PA 368, MCL 333.17708, for the controlled substance issued to the individual by his or her treating physician; or (ii) the individual refuses without good cause to submit to the drug test.

Provides that an individual is disqualified from receiving benefits for any week or part of a week in which the individual has received, is receiving, or is seeking unemployment benefits under an unemployment compensation law of another state or of the U.S. If the appropriate agency of the other state or of the U.S finally determines that the individual is not entitled to unemployment benefits, such disqualification does not apply.

#### Overpayments

Provides that, notwithstanding certain other provisions of law, if the employing unit submits notice to the unemployment agency of possible ineligibility or disqualification beyond the time limits prescribed by unemployment agency rule, and the agency concludes that benefits should not have been paid, the claimant shall repay the benefits paid during the entire period of ineligibility or disqualification. The agency shall not charge interest on such repayments.

**MICHIGAN**

HB 4953  
(P.A. 144)

ENACTED and EFFECTIVE October 29, 2013

#### Financing

Provides that, when the unemployment agency requests monetary information from an employer or employing unit concerning the separation reported by the claimant, no further consideration of a separation from any base period employer will be made unless such employer notifies the agency of a possible disqualifying separation within 30 days of the separation. If the employer or employer's agent has a pattern of failing to respond with timely or adequate information required or requested, benefits paid to a claimant as a result of the employer's or employer's agent's failure to provide timely or adequate information shall be charged to that employer's account. Recovery of benefits improperly paid to the claimant shall be as provided under the recovery provisions.

Provides that if, the unemployment agency requests additional monetary information or nonmonetary information from an employer or employing unit and the agency fails to receive a written response within 10 calendar days after the date of mailing the request, the agency shall make a determination based on the available information at the time the determination is made. If the employer or employer's agent has a pattern of failing to respond with timely or adequate information required or requested, benefits paid to a claimant as a result of the employer's or employer's agent's failure to provide timely or adequate information shall be charged to that employer's account. Recovery of benefits improperly paid to the claimant shall be as provided under the recovery provisions.

#### Overpayments

Provides that if, upon the redetermination requested by an employer concerning eligibility or qualification of a claimant who has received a weekly benefit check, the claimant is found ineligible or not qualified, the unemployment agency shall proceed to recover the benefits improperly paid as provided under the recovery provisions. In addition, the agency shall investigate and determine whether the claimant obtained benefits for 1 or more preceding weeks within the series of consecutive weeks that includes the week covered by the redetermination and, if so, shall proceed to recover the benefits improperly paid as provided under the recovery provisions.

**MICHIGAN**

HB 4954  
(P.A. 145)

ENACTED and EFFECTIVE October 29, 2013

#### Financing

Provides that the state's unemployment compensation fund shall also consist of amounts of benefits recovered that were obtained fraudulently, and the amounts recovered from the 15 percent penalty assessed on fraudulent benefit overpayments.

**NEW HAMPSHIRE**     Rule 8139

Adopted October 28, 2013  
Effective September 27, 2013

#### Overpayments

Provides that a debtor may request a compromise of an overpaid benefit account which may not be fully waived (amounts greater than \$50 may not be fully waived). The Department of Employment Security shall recommend the total or partial compromise of any overpaid benefit account to the attorney general when such is determined to be in the best interests of the state. The notice to the debtor must provide an opportunity to elect whether to have the request for compromise considered on the record or via a hearing. A determination will be made on the record if an election is not made within 14 days of the date of the notice. The debtor will receive a notice of the Department's decision on the request for compromise including the reasons for the decision. A debtor has the right to request reconsideration and a compromise again in the future.



Provides that there shall be a rebuttable presumption that is in the best interests of the State to compromise a non-fraud overpaid benefit account of State unemployment benefits in total based on the debtor's household income from a variety of sources. The presumption shall be rebutted by evidence if the overpayment was the result of fraud. If unrebutted, a determination of whether a total or partial compromise is recommended, and whether the determination is in the best interests of the State shall be based on certain factors.

Provides that there shall be a rebuttable presumption that is in the best interests of the State to compromise any non-fraud portion of an overpaid benefit account of State unemployment benefits that resulted from base-period wages from a reimbursing employer; provided that the claimant provides satisfactory documentation that the reimbursing employer does not object. The presumption shall be rebutted if it is found that there is some other reason to conclude that failing to recover the overpayment would, or could, affect (1) any interested party other than a non-objecting reimbursing employer, or (2) an agency or department of any State or of the federal government. If rebutted, a determination of whether a total or partial compromise is recommended, and whether the determination is in the best interests of the State shall be based on certain factors.

Provides that if an overpayment, that is the subject of the request for compromise, qualifies as an "overpayment debt" (that is, due to fraud or unreported earnings, and uncollected), the compromise request shall not be considered until a tax refund offset may be, or has been, certified by the Department to satisfy a debt owed by the individual.

**NEW JERSEY**      AB 4188      ENACTED and EFFECTIVE October 16, 2013  
(CH 169)

#### Administration

Requires employers and labor organizations doing business in the state to report to the National Directory of New Hires the first day of earnings for rehired employees who have been separated from employment for at least sixty 60 consecutive days.

**NEW JERSEY**      SB 2738      ENACTED and EFFECTIVE August 9, 2013  
(CH 124)

#### Financing

Provides that the monetary penalty of 25 percent of benefits fraudulently obtained shall be immediately deposited as follows:

- 10 percent of the amount fraudulently obtained shall be deposited into the unemployment compensation auxiliary fund for the use of said fund; and
- 15 percent of the amount fraudulently obtained shall be deposited into the unemployment compensation fund.

#### Overpayments

Provides that the monetary penalty of 25 percent of benefits fraudulently obtained shall apply to regular state unemployment benefits as well as to the following unemployment compensation programs of the United States:

- Unemployment compensation for federal civilian employees (UCFE);
- Unemployment compensation for ex-service members (UCX);
- Trade readjustment allowances (TRA);
- Disaster unemployment assistance (DUA);
- Any federal temporary extension of unemployment compensation;
- Any federal program that increases the weekly amount of unemployment compensation payable to individuals; and
- Any other federal program providing for the payment of unemployment compensation.

**NEW JERSEY**      SB 2739  
                                 (CH 148)

ENACTED August 19, 2013  
EFFECTIVE October 22, 2013

#### Financing

Provides that an employer's account shall not be relieved of charges related to a benefit payment that was made erroneously if it is determined that the erroneous benefit payment was made because

- the employer, or an agent of the employer, failed to respond in a timely manner or adequately to a request for information related to the claim for benefits; and
- the employer, or an agent of the employer, has established a pattern of failing to respond in a timely manner or adequately to requests for information related to claims for benefits.

Provides that determinations prohibiting the relief of charges shall be subject to appeal in the same manner as other determinations related to the charging of employer accounts.

Defines "erroneous benefit payment" as a benefit payment that, except for the failure by the employer, or an agent of the employer, to respond in a timely manner or adequately, to a request from the division for information with respect to the claim for benefits, would not have been made.

Defines "pattern of failing" as repeated documented failure on the part of the employer, or an agent of the employer, to respond to requests for information related to a claim for benefits, except that an employer, or an agent of an employer, shall not be determined to have engaged in a "pattern of failing" if the number of failures to respond to requests for information related to claims for benefits during the previous 365 calendar days is less than three, or if the number of failures is less than two percent of the number of requests, whichever is greater.

Applies to erroneous benefit payments made on or after October 22, 2013.

**NEW JERSEY** AB 2993  
(CH 102)

ENACTED and EFFECTIVE August 7, 2013

### Extensions and Special Programs

Provides that any individual receiving benefits under the Unemployment Compensation for Ex-Servicemembers (UCX) program shall be, upon the expiration of those benefits, eligible for supplemental benefits equal to twenty-six times the individual's weekly benefit amount minus the amount of benefits paid to the individual under the UCX program, regardless of the number of base weeks worked or the amount of contributions paid by the individual or any employer of the individual. Provides that supplemental benefits shall not be paid for any week that occurs prior to the exhaustion of UCX benefits, and shall not be charged to any employer.

**NEW YORK** AB 7911  
(CH 456)

ENACTED October 23, 2013  
EFFECTIVE November 8, 2013

### Administration

Provides that, except as permitted or otherwise authorized, federal unemployment insurance grant funds shall not be used to pay for any of the costs incurred by the Department of Labor in processing and handling a request for disclosure of unemployment information. Such costs shall be paid in advance of disclosure by the entity requesting the information or by another party acting on behalf of such entity. Public officials may make payment of costs by way of reimbursement. Costs paid shall be the income of the state unemployment insurance program and shall only be used as permitted under federal regulations or guidelines governing the assessment and expenditure of such costs.

**NEW YORK** Rule 24039

Adopted September 25, 2013  
Effective October 1, 2013

### Financing

Provides, except as otherwise noted below, that an employer's account shall not be relieved of charges relating to an overpayment of benefits if the overpayment is caused by the employer or an agent of the employer failing to respond timely or adequately to a claim notice or other request for information regarding the individual's eligibility or entitlement to benefits. A response to a claim notice shall be timely if received by the Department of Labor within 10 calendar days of the date on the claim notice. All other requests for information must be received by the Department within the number of days specified in the written or verbal request for information. To be considered adequate, the response must (1) specify the reasons for separation, or other issues affecting eligibility or entitlement to benefits; (2) answer, in good faith, all questions in detail; and (3) provide all relevant information and documentation to render a correct determination regarding the claimant's eligibility or entitlement to benefits. An employer's account may be relieved of charges if, for the first instance of failing to provide timely or adequate information, good cause is provided for such failure. After the first instance, of failing to provide timely and adequate information, the employer shall only be relieved of

charges for a subsequent failure if (a) the charges were due to an error by the Department, or (b) the employer was unable to respond in a timely manner due to a disaster emergency as declared by the Governor of this State or the President of the U.S.

**OHIO**

HB 37  
(Session Law No. 35)

ENACTED and EFFECTIVE July 11, 2013

Extensions and Special Programs

Creates the Shared Work Ohio program and provides definitions for the program.

Requires approval of a shared work plan to include: information on participating employees: name, social security number, affected unit and normal weekly hours of work; a reduction percentage between 10 percent and 50 percent and a description of any temporary closure for business maintenance or other similar circumstance; a plan for advance notice to affected employees or an explanation of why notice is not feasible; certification by the employer that the reduction in hours is in lieu of layoffs and provide an estimate of the number of layoffs that would have occurred without the plan; certification that health and retirement benefits or contributions under a defined contribution plan continue to be provided under the same terms and conditions as if the employees hours had not been reduced or to the same extent as other employees not participating in the plan; attestation that employees may participate in training to enhance job-skills, including employer-sponsored training or training funded under the Workforce Investment Act; information required by the U.S. Secretary of Labor or the director of jobs and family services; attestation that the employer's plan and implementation are consistent with state and federal laws; certification that the employer will promptly notify the director of any sale or transfer of the business and that the successor be notified prior to the transfer of the approved shared work plan; certification that the employer is current on all reports and has paid all contributions, reimbursements, interest and penalties due and will continue to remain current; certification that no employees participating in the plan are employed on a seasonal, temporary or intermittent basis; and assurance that the hours for participating employees will not be reduced by more than the percentage reduction except for temporary closure of business for equipment maintenance or when the employee takes approved time off with pay and the combined hours of work and time off would equal the number of hours the employee would have worked under the plan.

Provides that the Director shall approve or deny a plan and send written notice no later than 30 days after receipt of the plan and, if applicable, provide reasons for denial. The director shall enforce the requirements of the shared work program.

An approved plan is effective the week following approval and expires at the end of the 52<sup>nd</sup> week following approval.

Requires approval of any plan modifications and provides that the director may terminate a plan for good cause if the plan is not being executed according to terms and assurances of the plan or the employer fails to comply with established criteria. Plans may be terminated by written request.

Decisions regarding proposed shared work plans or modification of the plans may not be appealed. If an employer's shared work plan is denied, the employer may resubmit a plan.

An individual is eligible for shared work compensation if the individual is employed by a participating employer and is subject to a shared work plan. The individual must be available for the normal weekly hours of work; have a 10-50 percent reduction in the normal weekly hours of work; have been employed by the employer for a least 20 qualifying weeks within the base period or received weekly wages of at least 27.5 percent of the statewide average weekly wage for those weeks; have satisfied the waiting week requirement; and, otherwise satisfy the requirements for receipt of unemployment compensation.

To be considered available for the normal weekly hours of work, an individual must work the assigned number of hours under the shared work plan. When the individual does not work the assigned hours, the individual will be considered available if the combined hours of work and paid leave equal the hours assigned under the plan or any change in the reduction of hours worked was not the individual's fault and the reduction is not more than 50 percent of the normal weekly hours of work.

Provides that the weekly shared work compensation shall be the weekly benefit amount multiplied by the percentage reduction in hours if the participating employee did not take paid leave during the week, the reduction in work hours is between 10 and 50 percent of the normal weekly work hours and the individual is not at fault for any increase or decrease in the number of work hours that were established in the shared work plan.

The shared work compensation payment shall be rounded down to the next lower multiple of one dollar and shall not be paid for the waiting week.

If an individual works for another employer in addition to the shared work employer, the combined number of hours for both employers may not exceed 90 percent of the normal weekly hours of work and the percentage reduction in payment shall factor in the hours worked for each employer.

Shared work compensation and unemployment compensation received in a benefit year shall not exceed 26 times the weekly benefit amount. An individual who has exhausted benefits for both is eligible to receive extended benefits.

Shared work compensation shall not be paid if the hours worked exceed or fall below the hours established in the plan unless the change in hours is not the fault of the employee.

An individual is eligible for total or partial unemployment benefits if no services for the participating employer are performed for the week; if the normal weekly hours of work are reduced by more than 50 percent, the individual is eligible for partial unemployment. Benefits shall be calculated against the maximum benefit year amount payable; the 52-week benefit year shall begin with the first day of the week the participating employer files a claim unless another benefit year applies to the individual.

Individuals receiving shared work compensation shall not be required to file a claim or meet the ability and availability or work search requirements.

Requires that participating employers file claims on an established 2-week schedule and report the hours worked on behalf of participating employees.

Shared work compensation payments shall be charged to the accounts of participating employers unless reimbursed by the Federal government under Public Law 112-96.

Requires the director of job and family services to submit an annual report beginning one year after the effective date of the shared work program, which includes the number of employers and employees participating in the program, the amount of shared work compensation paid, and any other relevant information.

### Financing

For determinations made on or after October 21, 2013, provides that an employer's account shall not be credited for benefits improperly paid if the employer failed to respond timely or adequately to a request for information and the employer has established a pattern of failing to respond timely or adequately within the same calendar year. A response is considered timely if it is received within the time provided under current law and is considered adequate if all questions raised by the agency are answered. A "pattern of failing" is established after the third failure to respond to a request for information within a calendar year.

Provides that the employer's account shall be charged for benefits if the mutualized account is not charged for erroneous benefit payments.

Provides that appeal provisions apply to all determinations issued related to employer's failure to respond timely or adequately to requests for claimant information.

### Overpayments

Provides that procedures to collect penalties shall not be initiated after 6 years from the date of the order for repayment.

For findings on or after October 21, 2013, requires a penalty of 25 percent of the total amount of benefits rejected or canceled. Provides that 60 percent of the penalty shall be deposited in the unemployment fund and 40 percent shall be deposited in the special administrative fund. Penalty provisions do not apply to federal tax refund offsets.

**OREGON**

SB 191  
(CH 703)

ENACTED and EFFECTIVE July 29, 2013

### Financing

Provides that repaid benefits and the portion of the monetary penalty that is 15 percent of the amount of overpaid benefits shall be paid into the Unemployment Compensation Trust Fund.

Provides that interest on overpaid benefits, and the remaining portion of the monetary penalty, shall be paid into the Employment Department Special Fraud Control Fund.

Provides that interest payable on any portion of benefits that were funded by the Federal government shall be paid to the United States Department of Labor.

Requires the director to adopt rules establishing standards and procedures for the repayment of benefits and payment of penalties and interest.

### Overpayments

Imposes a monetary penalty of at least 15, but not greater than 30 percent (under previous law, 15 percent) of the amount of overpaid benefits. (Applies to overpayments established on or after October 1, 2013.)

Extends from one year to five years the period during which non-fraud overpayments may be offset from future benefits.

Extends from one year to five years the period after which non-fraud overpayments shall be cancelled as uncollectible.

**PENNSYLVANIA** HB 421  
(Act No. 75)

ENACTED October 23, 2013  
EFFECTIVE October 23, 2013,  
or as noted

### Coverage

Excludes from the definition of “employment” services performed by a full-time student in the employ of an organized camp if: (a) the camp did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year; or had average gross receipts for any 6 months in the preceding calendar year that were not more than thirty-three and one-third per centum (33 1/3 percent) of its average gross receipts for the other 6 months in the preceding calendar year; and (b) the full-time student performs services in the employ of the camp for less than 13 calendar weeks in any such year. (Applies to services performed on or after October 23, 2013.)

Provides that an individual shall be treated as a full-time student for any period during which the individual is enrolled as a full-time student at an educational institution; or which is between academic years or terms if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term and there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term. Defines “educational institution” to mean any educational institution of secondary, higher

educational, professional or vocational educational training. Defines “camp” to mean a children’s overnight camp or a summer day camp of any variety.

### Extensions and Special Programs

Effective January 20, 2014, makes technical changes to the shared-work program provisions as follows:

- “Fringe benefit” defined as health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave and any other similar employee benefit provided by an employer has been deleted from the list of definitions.
- An application submitted for plan approval must also include: (1) the employer’s written plan, describing the manner in which the requirements of the law will be implemented, including a plan for giving advance notice, where feasible, to participating employees whose hours of work are reduced, an estimate of the number of layoffs that would have occurred in the absence of the employer’s shared-work plan and other information required by the Department of Labor and Industry and the United States Department of Labor; (2) the employer’s attestation that its implementation of the shared-work plan is consistent with the employer’s obligations under Federal and state law; and (3) if the employer provides health benefits and retirement benefits under a defined benefit plan as defined in section 414(j) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(j)), or contributions under a defined contribution plan as defined in section 414(i) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(i)), to a participating employee whose hours of work are reduced under the shared-work plan, the employer’s certification that the benefits will continue to be provided to participating employees under the same terms and conditions as though the hours of work of the employees had not been reduced or to the same extent as other employees not participating in the shared-work plan.
- For departmental approval, a shared-work plan must also provide that all employees in the affected unit are participating employees, except an employee in the affected unit who is employed on a seasonal, temporary or intermittent basis.
- Deletes from the requirements for plan approval that the shared-work plan does not affect the fringe benefits of any participating employee not covered by a collective bargaining agreement.
- Deletes the provision that the shared-work plan shall expire 5 years from its effective date.

### Financing

Provides that an employer’s account shall be charged with compensation paid to an individual to which an overpayment is not established against the individual.

Provides that in addition to the charges to the employer’s account mentioned in the foregoing paragraph, an employer’s account shall be charged with compensation paid to an individual for which an overpayment is established against the individual if the compensation is paid because the employer or an agent of the employer responds untimely or inadequately, or fails to respond



to a request for information regarding the individual's eligibility for compensation. The response to a request for information shall be untimely if filed more than 14 days after the request for information is mailed or transmitted electronically. The response shall be inadequate if the response misrepresents or omits facts that, if represented accurately or disclosed, would have been a basis to disqualify the individual from receiving compensation. (Applies to overpayments established on or after October 21, 2013.)

Provides that the 15 percent penalty of the amount of the overpayment of compensation paid due to fraud will be deposited to the Unemployment Compensation Fund. (Applies to overpayments established on or after October 21, 2013.)

### Overpayments

Provides that overpayments of compensation shall be deducted from compensation payable under an unemployment benefit program of the United States or another State, and overpayments of compensation under an unemployment benefit program of the United States or another State shall be deducted from compensation payable under this State's unemployment compensation law or compensation paid by the Commonwealth pursuant to an unemployment benefit program of the United States.

Provides that whoever makes a false statement knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase compensation or other payment under this State's unemployment compensation law or under an employment security law of the Federal government and as a result receives compensation to which he/she is not entitled shall be liable to pay a sum equal to 15 percent of the amount of the overpaid compensation. The sum shall be collectible in the manner provided for the collection of past due contributions and by any other means available under Federal or state law. No administrative or legal proceeding for the collection of the sum may be instituted after the expiration of 10 years following the end of the benefit year with respect to which the sum was paid. (Applies to overpayments established on or after October 21, 2013.)

**PENNSYLVANIA** Rule 4970

ADOPTED August 16, 2013  
EFFECTIVE August 17, 2013

### Nonmonetary Eligibility

Requires individuals to register for employment search services with Pennsylvania CareerLink within 30 days after filing an application for benefits.

Requires individuals to apply for at least two positions a week beginning the third week of the benefit year. Applications may be limited to positions similar to those held prior to unemployment that are within a 45-minute commuting distance. Applications may be completed in person, by mail, phone, or electronic transmission, submitting a job application or resume to the employer, or by following the hiring procedure of the employer. If similar positions are not available, the individual is required to apply for two positions in suitable work or engage in a combination of a work search activity and an application for suitable work.

In addition to applying for at least two positions, requires the individual to engage in at least one of the work search activities as defined in the regulation, such as attending a job fair, posting a resume, or searching for positions posted on Pennsylvania CareerLink or other Internet job banks, and contacting colleagues, former coworkers, or other individuals in similar occupations to make known his/her availability or obtain information about available positions or employment opportunities. Work search is not required if the individual applied for more than two positions.

Provides that an individual is not required to complete work search activities if he/she is registered with a union hiring hall and required to obtain employment through the hiring hall or actively participating in a program or activity approved by the Department.

Provides that if an individual working part-time earns in excess of the partial benefit credit, he/she is not required to complete a work search activity but must apply for at least one position.

Provides that if an individual is interviewed for a position, the interview may substitute for either an application or a work search activity.

Provides that if the individual's labor market is outside of Pennsylvania, the individual must register with the employment service for his/her area in addition to registering for the CareerLink system.

Allows the Department to approve work search efforts that include actions comparable to actions by others finding jobs in the individual's trade or occupation. Allows the Department to waive requirements if compliance would be oppressive or inconsistent with the purposes of the law.

Provides that the requirements established for active work search do not apply for any week that an individual is participating in approved training or reemployment services under the Trade Act or training approved by the Department, participating in a work-sharing plan, or if the individual's employer has designated a specific recall date in writing and the date has not been rescinded or passed.

Provides that an individual shall satisfy any additional requirements established for the receipt of extended benefits in addition to the requirements above.

**TEXAS**

Rule 25595

ADOPTED December 17, 2013

EFFECTIVE January 6, 2014

#### Administration

Requires all employers and their agents to file employer's reports, including summary and detail wage information, electronically (eliminates the option to submit through magnetic media) using a format prescribed by the agency.

Requires all employers (previously employers with paid contributions of \$250,000 or more the previous fiscal year) to make employer contribution payments by a Commission-approved electronic means.

Replaces the term ‘staff leasing services company’ with ‘professional employer organization.’

**WISCONSIN**

AB 449  
(Act No. 104)

ENACTED December 13, 2013  
EFFECTIVE December 15, 2013

Coverage

Provides that service in the sale or soliciting the sale of consumer products shall not be covered employment if substantially all of the remuneration is directly related to the sales or other output related to sales rather than to hours worked. (Effective for services performed after December 31, 2013.)